

§ 405.1845

However, the Board may call as a witness any employee or officer of the Department of Health and Human Services having personal knowledge of the facts and the issues in controversy in a hearing pending before the Board and may call as a consultant to the Board in connection with any such hearing any individual designated by the Secretary for such purpose. (See § 405.1863.)

§ 405.1845 Composition of Board.

(a) The Board will consist of five members appointed by the Secretary. All shall be knowledgeable in the field of cost reimbursement. At least one shall be a certified public accountant. Two Board members shall be representative of providers of services.

(b) The term of office for Board members shall be 3 years, except that initial appointments may be for such shorter terms as the Secretary may designate to permit staggered terms of office. No member shall serve more than two consecutive 3-year terms of office. The Secretary shall have the authority to terminate a Board member's term of office for good cause.

(c) One member of the Board shall be designated by the Secretary as Chairman thereof and shall coordinate and direct the administrative activities of the Board, and shall have such other authority which may be granted to him by the Board.

(d) A quorum shall be required for the rendering of Board decisions. Three members, at least one of whom is representative of providers of services, shall be required to constitute a quorum. The Chairman of the Board, with approval of the provider, may designate one or more Board members to conduct any hearing and to prepare a recommended decision (where less than a quorum conducts the hearing). (See § 405.1869.)

[39 FR 34515, Sept. 26, 1974, as amended at 41 FR 52051, Nov. 26, 1976. Redesignated at 42 FR 52826, Sept. 30, 1977]

§ 405.1847 Disqualification of Board members.

No Board member shall join in the conduct of a hearing in a case in which he is prejudiced or partial with respect to any party or in which he has any interest in the matter pending for deci-

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sion before him. Notice of any objection which a party may have with respect to a Board member shall be presented in writing to such Board member by the objecting party at its earliest opportunity. The Board member shall consider the objection and shall, in his discretion, either proceed to join in the conduct of the hearing or withdraw. If he does not withdraw, the objecting party may petition the Board, presenting its objection and reasons therefor, and be entitled to a ruling thereon before the hearing can proceed.

§ 405.1849 Establishment of time and place of hearing by the Board.

The Board shall fix the time and place for the hearing and shall mail written notice thereof to the parties at their last known addresses, not less than 30 days prior to the scheduled time. Either on its own motion or for good cause shown by a party, the Board may, as appropriate, reschedule, adjourn, postpone, or reopen the hearing, provided that reasonable written notice is given to the parties.

§ 405.1851 Conduct of Board hearing.

The Board hearing shall be open to the parties, to representatives of the Health Care Financing Administration, and to such other persons as the Board deems necessary and proper. The Board shall inquire fully into all of the matters at issue and shall receive into evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the Board believes that there is relevant and material evidence available which has not been presented at the hearing, it may at any time prior to the mailing of notice of the decision, reconvene the hearing for the receipt of such evidence. The order in which the evidence and the allegations shall be presented and the conduct of the hearing shall be at the discretion of the Board.

§ 405.1853 Prehearing discovery and other proceedings prior to the Board hearing.

(a) Upon notification that a request for Board hearing has been filed, the intermediary shall forthwith review